IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.5320/06
Laxmi Narayan Maquana
Vs.
Rent Tribunal, Jaipur City, Jaipur & Anr.

17.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Ajay Shukla for petitioner.
Shri Sudesh Bansal for respondents.

Heard learned counsel for the parties.

The petitioner has challenged the order dated 28.4.2006 passed by Rent Tribunal, Jaipur whereby his application for taking the rejoinder on record has been rejected.

Learned counsel for the petitioner argued that the Rent Tribunal has committed an error of law in

rejecting the application without assigning any cogent reasons. It is argued that sub-section (3) of Section 14 of the Rajasthan Rent Control Act, 2001 (for short-`the Act') is procedural in nature and therefore it has to be taken as discretionary and not mandatory. The delay in filing the rejoinder was not adequate and had occasioned owing to bona fide reasons because counsel representing the petitioner before the Rent Tribunal had fallen ill and in fact was at bed rest for quite some time. Arguments in the rejoinder are very necessary for enabling the Tribunal to pass the effective and final judgment in the matter.

On the other hand, Shri Sudesh Bansal, the learned counsel for the

respondent opposed the writ petition and submitted that bald statement that rejoinder could not be filed because of the illness of the Advocate cannot explain the delay of 37 days particularly when the allowable period under Section 15(4) of the Act is only 15 days. It was argued that it is not only the rejoinder but the petitioner has sought to produce certain affidavits / documents also therewith whereas according to Section 15 (1), the affidavits and documents are required to be filed along with application in the first instance.

Having heard the learned counsel for the parties, I find that there is no such prayer on behalf of the petitioner that certain documents / affidavits may also be taken on record along with the

rejoinder. The pleadings of the parties and in fact discussion made in the impugned order is confined to placing the rejoinder on record. The application for placing the rejoinder was filed on 22.11.2004 which was decided on 28.4.2006. Thereafter this writ petition was filed on 4.7.2006 in which the proceedings of the Tribunal, as it is, were stayed by order of this Court dated 14.8.2006. The reason of illness of the counsel representing the petitioners before the Tribunal cannot be said to be ingenuine and in fact could actually have been responsible for late filing of the rejoinder.

In the circumstances of the case, I therefore, deem it appropriate to permit the rejoinder being taken on

record but with the clarification that no affidavit / document annexed therewith shall be liable to be accepted on record.

The prayer is therefore allowed to this limited extent. Consequently the impugned order dated 28.4.2006 is set aside and the writ petition is allowed in terms of the above directions.

(Mohammad Rafiq), J.

Rs/-